

# Professionalism: Understanding Your Obligations Under the Code

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AMERICAN ACADEMY *of* ACTUARIES

*Objective. Independent. Effective.*™

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The Middle Atlantic Actuarial Club, May 25, 2021

# Disclaimer

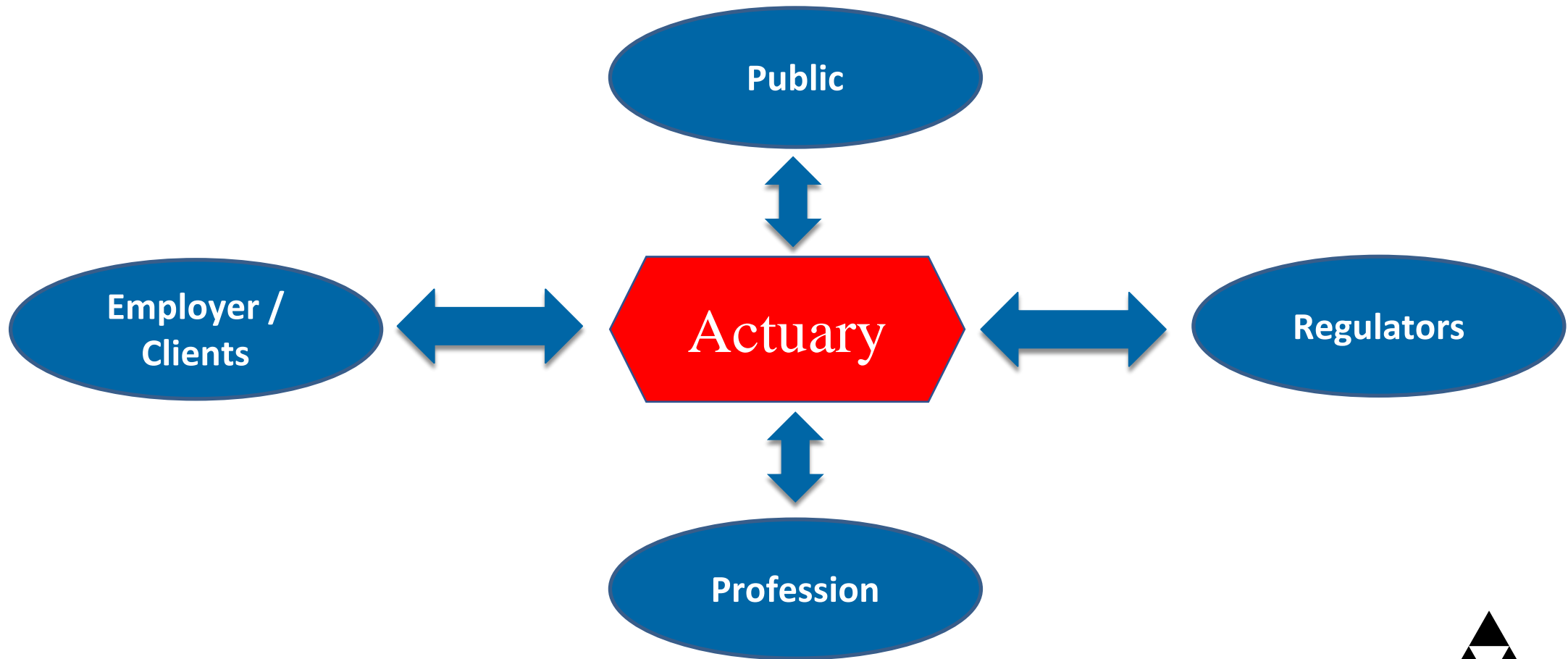
**Please note:** My statements and opinions are my own and do not necessarily represent the official statements or opinions of the American Academy of Actuaries, any boards, councils, or committees of the Academy, nor my employer.



# What does it mean to be a professional?



# Understanding Our Professional Obligations



# Putting the Public First

*Our standards and disciplinary processes are necessary to assure the public that we can, as a profession, be trusted. They are why the Academy was created, were and are necessary for U.S. actuaries to be recognized as a self-regulating profession.*



# What This Means



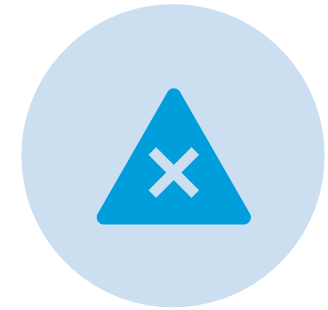
Actuaries may perform actuarial services only when qualified to do so.



Actuaries must follow applicable standards wherever they practice.



When Code and Law conflict, follow the Law.



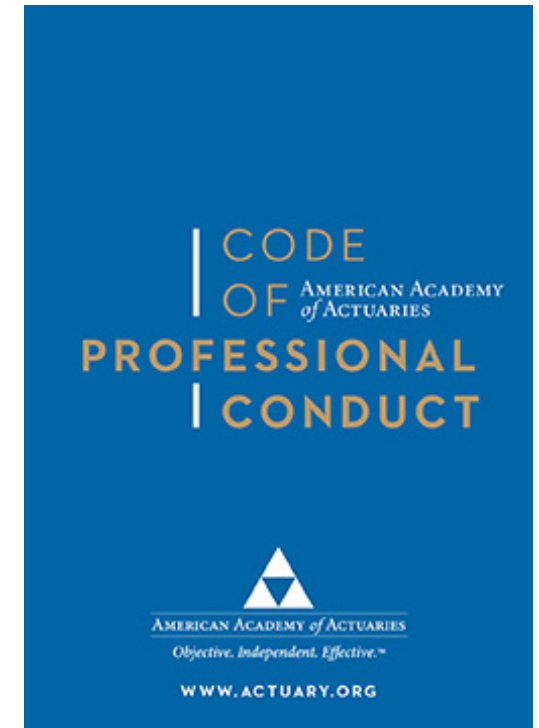
Actuaries who commit material violations are subject to counseling or discipline.



# How Do We Meet These Obligations?

## It All Starts With the Code

“The *Code of Professional Conduct* sets forth what it means for an actuary to act as a professional. It identifies the responsibilities that actuaries have to the public, to their clients and employers, and to the actuarial profession.”



# The Web of Professionalism



## Building Out From the Code:

- U.S. Qualification Standards
- Actuarial standards of practice
- Counseling and discipline





# Building a Culture of Professionalism

## Modeling Professional Behavior

- Tone at the top—behavior of management
- Behavior of peers
- Profession-wide ethical practices

*Professionalism in Action: Dec 2017*



# U.S. Qualification Standards



# USQS: General Structure

- Introduction (including definitions)
- General Qualification Standard
  - ▣ Basic Education and Experience Requirements
  - ▣ Continuing Education Requirements
- Specific Qualification Standards (when necessary)
- Changes in Practice and Application (general and specific)
- Acknowledgement of Qualification (suggested language)
- Recordkeeping Requirements



# U.S. Qualification Standards—SAO

- USQS defines a **Statement of Actuarial Opinion (SAO)** as having two components:
  - (i) an opinion expressed by an actuary in the course of performing actuarial services; and
  - (ii) an opinion that is intended by the actuary to be relied upon by the person or organization to which it is addressed.

**PROFESSIONALISM COUNTS**

## An SAO by Any Other Name

By ANDREA SWEENEY  
Chairperson, Committee on Qualifications

I AM CERTAIN THAT WILLIAM SHAKESPEARE was not thinking about the U.S. Qualification Standards (USQS) or statements of actuarial opinion (SAOs) when he penned Juliet's famous line "What's in a name? That which we call a rose / By any other word would smell as sweet."<sup>1</sup> Neither was Gertrude Stein, when she declared in 1913 that a "Rose is a rose is a rose."<sup>2</sup> But the principle underlying these famously floral examples of the logical law of identity is one that actuaries can learn from: Whether an opinion expressed by an actuary is an SAO depends on the substance of the opinion, not on what the actuary calls it.

Precept 2 of the Code of Professional Conduct (Code) states that an actuary "shall perform Actuarial Services... only when the Actuary satisfies applicable qualification standards." According to the *Qualification Standards for Actuaries Issuing Statements of Actuarial Opinion in the United States*, "Actuaries who issue Statements of Actuarial Opinion when rendering Actuarial Services in the United States are required by the Code... to satisfy these Qualification Standards."<sup>3</sup> For this reason, any actuary who is subject to the Code should understand what an SAO is.

The USQS provides a two-prong definition of an SAO. It is (i) "an opinion expressed by an actuary in the course of performing Actuarial Services"; and is (ii) "intended by that actuary to be relied upon by the person or organization to which the opinion is addressed."<sup>4</sup> The USQS, and the answers to [Frequently Asked Questions](#) (FAQs) provided by the Academy's Committee on Qualifications (COQ), contain important information on how to identify the elements of the SAO.

How have these two prongs been interpreted?

First, an SAO "must be based on actuarial considerations,"<sup>5</sup> and not merely involve numbers or calculations. FAQ 17, for example, explains that if an actuary states "the health care trend you have experienced is 10 percent," based on compiled data alone without any actuarial considerations, the statement is not an SAO. By contrast, if an actuary states that "the expected health care trend for your commercial business for next year is 10 percent," the statement would likely be an SAO because it involves actuarial considerations.

Second, the actuary must intend for the opinion to be relied upon by the person or organization to which the opinion is addressed. If the actuary does not intend for the actuary's principal to rely upon the opinion, the actuary must clearly state this. However, even labeling an opinion "not to be relied upon" or a "draft" does not prevent reliance. Appendix 1 states, "if there is a reasonable likelihood that the Principal will rely on the draft regardless of intent, that is an indication that the draft is an SAO."<sup>6</sup> If an actuary holds a position that is "non-actuarial in nature" or has "non-actuarial aspects," the USQS are not intended to apply to oral or written statements issued "by virtue of the positions they hold and not because they are actuaries."<sup>7</sup>

As the parsing of the elements of an SAO illustrates, the definition of an SAO in the USQS is very broad. SAOs can be written or oral. They can include internal or external company communications. They can be provided for compensation or gratis. They do not depend upon the status of the actuary as "working" or "retired." Appendix 1 of the USQS describes SAOs and lists some examples of commonly issued opinions and work products and whether they are likely to be considered SAOs. Appendix 1 also describes generally what types of actuarial work involving government or other public sector actuaries may be considered SAOs.

As former Academy President Tom Wildsmith summarized, "Some might misunderstand this term [SAO] to be limited to a formal statement filed with a regulator—nothing could be further from the truth. A simple rule of thumb is that if I perform work that someone else relies on because I am an actuary, then the USQS likely apply."<sup>8</sup>

Given the breadth of the definition and the fact that issuing even a single SAO requires compliance with the USQS, actuaries should ensure that they meet the USQS requirements. As the COQ stated in FAQ 15 regarding the interpretation of "gray areas," "the Committee recommends that practicing actuaries endeavor to meet the USQS rather than expending time and energy trying to find interpretations that support exemption from the USQS." An SAO is an SAO is an SAO is an SAO. ▲



**FOOTNOTES**

<sup>1</sup> Romeo and Juliet, Act II, Scene 2.  
<sup>2</sup> From the poem "Sacred Emily."  
<sup>3</sup> USQS, Section 1.  
<sup>4</sup> USQS, Section 1.  
<sup>5</sup> Appendix 1, 1(d).  
<sup>6</sup> Appendix 1, 1(b).  
<sup>7</sup> USQS, Section 1.  
<sup>8</sup> Contingencies, September/October 2016, p. 24.

# Actuarial Standards of Practice



# Actuarial Standards of Practice

- Precept 3 of the *Code of Professional Conduct* states in part that:
  - “An Actuary shall ensure that Actuarial Services performed by or under the direction of the Actuary satisfy **applicable standards of practice.**” (emphasis added)
- ASOPs provide:
  - Guidance to practicing U.S. actuaries when they do the work; and
  - Documentation of then-current practice in the event of a later dispute



# Structure of ASOPs

## Cross-Practice ASOPs

ASOP 1 Introductory ASOP
ASOP 41 Actuarial Communication

ASOP 12	Risk Classification
ASOP 17	Expert Testimony by Actuaries
ASOP 21	Responding to or Assisting Auditors...
ASOP 32	Social Insurance

ASOP 23	Data Quality
ASOP 25	Credibility Procedures
ASOP 56	Modeling
Exposure	Setting Assumptions

## Practice-Specific ASOPs

Casualty  
ASOP 13, 19,  
20, 29, 30, 36,  
38, 39, 43, 53

ERM  
ASOP 46, 47,  
55

Health  
ASOP 3, 5, 6,  
8, 11, 18, 19,  
22, 26, 28, 42,  
45, 49, 50

Life  
ASOP 2, 7, 10,  
11, 14, 15, 19,  
22, 24, 33, 37,  
40, 48, 52, 54

Pension  
ASOP 4, 6, 27,  
34, 35, 44, 51



# Applicability Guidelines

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## Applicability Guidelines For Actuarial Standards Of Practice

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### Introduction to the Applicability Guidelines

The five U.S.-based actuarial organizations have Codes of Professional Conduct that require their members to satisfy applicable actuarial standards of practice (ASOPs) when providing actuarial services. ASOPs are authoritative guidance for actuaries practicing in the U.S. and are issued by the Actuarial Standards Board (ASB).

The guidelines are updated periodically. The actuary is responsible for keeping current with changes to the ASOPs and determining that professional services rendered by the actuary or under the actuary's supervision satisfy the current version of each applicable ASOP. Please send suggestions for improving these guidelines (such as additional areas of practice that might be covered) to the Council on Professionalism at [ApplicabilityGuidelines@actuary.org](mailto:ApplicabilityGuidelines@actuary.org).

- For the current Applicability Guidelines, click [here](#)

**QUICK LINKS**

- Find an Actuary
- The Social Security Game
- Actuarial eLearning Center
- PAL Pension Assistance List Volunteer
- The Academy Celebrates 50 Years

- Suggest which ASOPs might apply to common tasks
- Listed by practice area
- Nonbinding
- Access downloadable file at bottom of page



# Actuarial Board for Counseling and Discipline



# The Actuarial Board for Counseling and Discipline



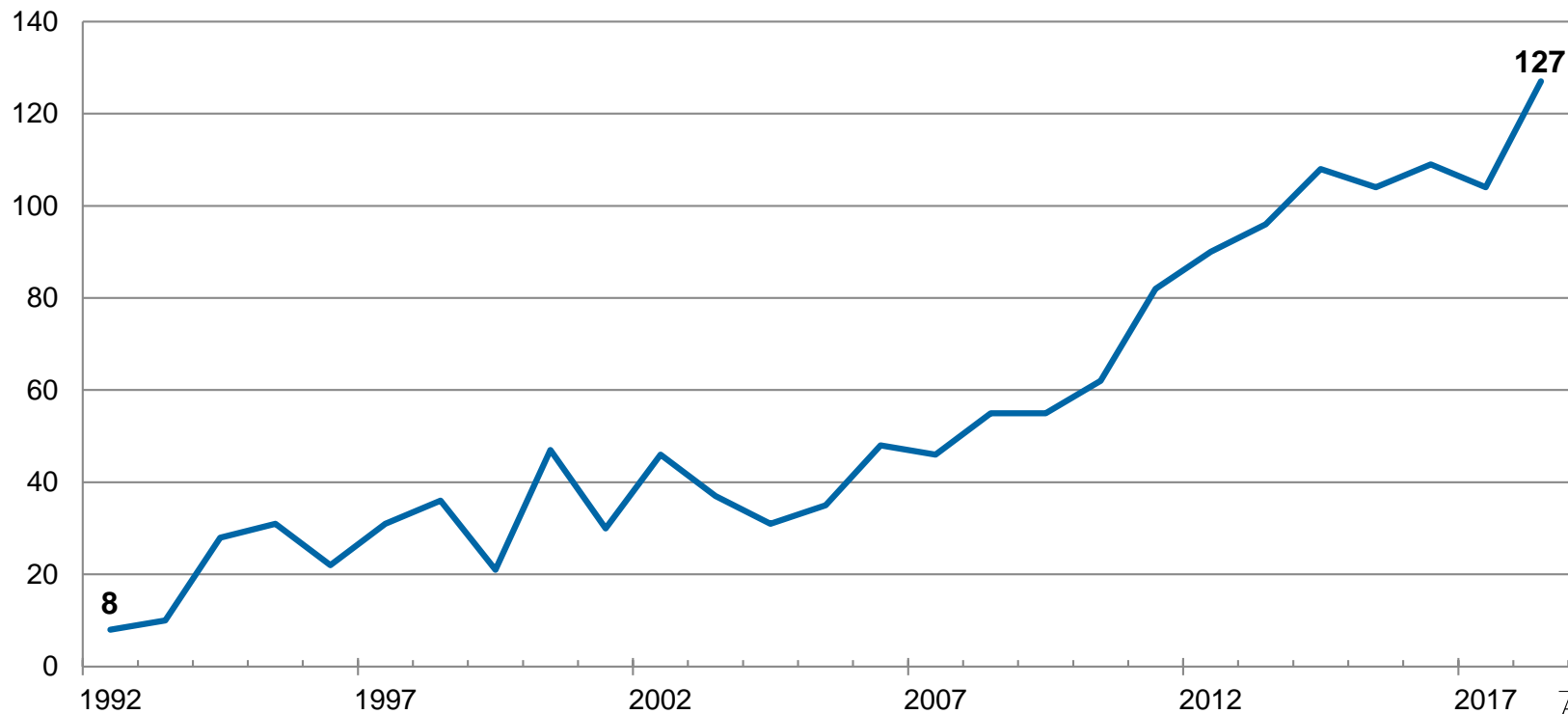
- Two primary functions
  - Respond to requests for guidance (RFGs) on professionalism issues
  - Consider complaints about possible violations of the Code



# ABCD Requests for Guidance

- There has been a significant increase in RFGs over the years.

Requests for Guidance, 1992–2020



# ABCD Cases by Practice Area

		2016	2017	2018	2019	2020
New	Casualty	3	5	1	8	2
	Health	0	5	5	1	5
	Pension	12	10	3	4	11
	Life	4	2	4	4	15
	<b>Total</b>	<b>19</b>	<b>22</b>	<b>13</b>	<b>17</b>	<b>33</b>
Resolved	Casualty	6	0	1	12	1
	Health	2	2	7	2	1
	Pension	6	8	11	2	10
	Life	0	5	3	4	12
	<b>Total</b>	<b>14</b>	<b>15</b>	<b>22</b>	<b>20</b>	<b>24</b>



# Major Issues by Precept (2020)

Major Issue Alleged	Discipline	Counsel	Dismiss	Total
Precept 1: Failure to act with integrity			17	17
Failure to perform services with competence		2	12	14
Failure to uphold reputation of profession	1	1	4	6
Precept 2: Performing work when not qualified			1	1
Precept 3: Work fails to satisfy an ASOP		2	8	10
Precept 4: Inadequate actuarial communication		1	4	5
Precept 5: Failure to identify Principal				



# Major Issues by Precept (2020)

Major Issue Alleged	Discipline	Counsel	Dismiss	Total
Precept 6: Failure to disclose				
Precept 7: Conflict of interest			2	2
Precept 8: Failure to take reasonable steps to prevent misuse of work product			4	4
Precept 9: Disclosure of confidential information				
Precept 10: Failure to cooperate with other actuary			5	5
Precept 11: Improper advertising				
Precept 12: Improper use of designation				
Precept 13: Failure to report violation			2	2
Precept 14: Failure to cooperate with the ABCD				



# Academy Public Discipline Notices

- The Academy's Public Discipline [webpage](#) contains information about persons who have been publicly disciplined by the Academy.
  - ▣ 13 expulsions
  - ▣ 10 suspensions
  - ▣ 14 public reprimands



# Working Through Ethical Dilemmas





# What Challenges Might We Face?

1. Pressure to get the “right” result?
2. Temptation to exaggerate our qualifications?
3. Projects that we don’t really know how to do?
4. Seeing other actuaries doing things that seem inappropriate?



# Working Through Ethical Dilemmas

- Am I compliant?
- Am I being transparent?
- Am I upholding the reputation of the profession?
- Is it the right thing to do?

***When in doubt, always look to the Code.***



# Case Studies



# Case Study #1

**FACT PATTERN:** Subject Actuary prepared “fiscal notes” setting forth the cost of certain proposed state legislation relating to public pension benefits. The fiscal notes, as prepared for clients and ultimately submitted to legislators, failed to identify the data, assumptions and other valuation elements upon which the notes were based, and also lacked sufficient information that would allow another pension actuary to opine on the reasonableness of the fiscal notes.

**QUESTION:** Subject Actuary was disciplined. Why?



# Case Study #2

**FACT PATTERN:** Subject Actuary also made statements published in a newspaper suggesting that his actuarial work lacks a scientific basis, and that his conclusions are influenced by the desired outcomes of his clients.

**QUESTION:** Subject Actuary was disciplined. Why?



# Case Study #3

**FACT PATTERN:** You are asked by a principal: “Without performing any calculations, what do you expect next year’s reserves to be?”

## QUESTIONS:

1. What should you be thinking?
2. Can you provide a meaningful answer?
3. Will the principal rely on your information?
4. Do you expect the answer to be considered an Actuarial Communication?
5. Is the conversation being recorded?
6. What Precepts and ASOPs come into play?



# Case Study #4

**FACT PATTERN:** Your boss is preparing for an important meeting and has asked for a quick projection of reserves for the next 10 years. The tools you have available would allow this calculation, but it will take a couple of weeks. When you explain this, your boss asks you to just do something “quick and dirty,” since the meeting is in two days.

**QUESTION:** What, if any, are the issues under the Code of Professional Conduct?



# Case Study #5

**FACT PATTERN:** I. M. Buzzed is a recent Associate who is a member of the Academy. He has little free time between work and his exams, but gives himself Friday nights off to relax. On a recent Friday evening he had an accident while driving home after having a few drinks with colleagues at the bar. His blood alcohol was slightly above the legal limit. When combined with fatigue from a long week, he was significantly impaired, and he was clearly at fault in the accident. Unfortunately, the driver of the other vehicle died at the scene.

**QUESTIONS:** Is there a potential violation of upholding “the reputation of the actuarial profession” under Precept 1 of the Code of Professional Conduct, even though Buzzed’s accident was part of his personal life, and had nothing to do with his profession or his job? Does it matter whether the Buzzed is identified as an actuary by the local media? What, if anything, changes if Mr. Buzzed fled the scene instead of waiting for the police?





# Case Study #6

**FACT PATTERN:** Hyer A. Cheever is a distinguished senior actuary nearing the end of his actuarial career who currently heads a large insurance company actuarial department. He is well-respected in the company and in the actuarial community at large, having in the past 15 years mentored numerous younger actuaries and spoken to actuarial conferences and co-authored articles for actuarial and insurance trade publications. Recently, however, an actuary at a competitor firm discovered that Cheever is listed in a local sex offender registry for a misdemeanor sex offense decades ago. The competitor actuary brings the offense to the attention of the ABCD.

**QUESTIONS:** Is there a potential violation of upholding “the reputation of the actuarial profession” under Precept 1 of the Code of Professional Conduct, even though Cheever has performed decades of estimable actuarial work since the offense? Does it matter if the offense occurred before Cheever was credentialed, or if it had been a felony offense? Does it matter whether this offense has received significant media attention, or whether the media has reported that Mr. Cheever is an actuary? Is the motive of the competitor actuary a concern? Is it appropriate for the competitor actuary to bring this offense to the attention of potential clients or the local news media?



# Resources



# Professionalism Resources

- Professionalism Webinar Archive (free to Academy members) <http://www.actuary.org/professionalism-webinars>
- Discussion Papers on various professionalism issues <http://www.actuary.org/discussion-papers>



# Professionalism Resources

## □ Academy Professionalism webpage

[www.actuary.org/professionalism](http://www.actuary.org/professionalism)

- \* Code of Professional Conduct
- \* Standards of practice (ASB)
- \* Discussion papers
- \* U.S. Qualification Standards
- \* Applicability Guidelines
- \* Webinars
- \* Recent Articles

## □ Academy's Professionalism First webpage

[professionalism.actuary.org](http://professionalism.actuary.org)

- \* Access "Professionalism Perspectives" blog and Academy's podcast series, "Actuary Voices"



# U.S. Qualification Standards and Tools

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## U.S. Qualification Standards

The U.S. Qualification Standards were revised effective Jan. 1, 2008, to broaden their scope and strengthen the CE requirements. The standards were developed by the Academy Committee on Qualifications and approved by the Board of Directors.

[U.S. Qualification Standards](#) ← (in effect as of Jan. 1, 2008)

["Which CE Requirements Apply to Me?" Infographic](#) (October 2013)

[FAQs on the U.S. Qualification Standards](#) ←

[Submitting Additional Questions](#) ← (use the online form to submit your additional questions about the U.S. Qualification Standards).

**Actuarial Board for Counseling and Discipline**

**Actuarial Standards Board**

### QUICK LINKS

- ▶ Find an Actuary
- ▶ Academy Committees
- ▶ Board Election Center
- ▶ Code of Professional Conduct
- ▶ U.S. Qualification Standards
- ▶ Volunteer
- ▶ Profession-wide Search
- ▶ Additional Links

- CE Infographic
- 53 FAQs
- Submit Questions



# Attestation Form

- <http://attest.actuary.org>
- Show how you meet
  - ▣ General Requirements
  - ▣ Specific Requirements
- Printable
- Can complete multiple attestations for multiple SAOs
- Can download complete attestation package (form and attachments)



# Academy Podcast

- Series brings thoughtful conversations on the role of professionalism in our day jobs and the Academy's public policy work.
- Listen and subscribe at <https://www.professionalism.actuary.org/actuaryvoices> or via the below podcast feeds.



# Questions?

Learn more anytime at  
[actuary.org](https://actuary.org).

